

1 Gavin W. Skok (WA SBN 29766)
 2 gskok@foxrothschild.com
 3 FOX ROTHSCILD LLP
 4 1001 Fourth Avenue, Suite 4500
 5 Seattle, Washington 98154-1192
 6 Telephone: (206) 624-3600
 7 Facsimile: (206) 389-1708

8 Jaemin Chang (SBN 232612)
 9 jchang@foxrothschild.com
 10 FOX ROTHSCILD LLP
 11 345 California Street, Suite 2200
 12 San Francisco, CA 94104-2670
 13 Telephone: 415.364.5540
 14 Facsimile: 415.391.4436

15 Attorneys for non-party Valve Corporation

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 17 **UNITED STATES DISTRICT COURT**
 18 **NORTHERN DISTRICT OF CALIFORNIA**
 19 **OAKLAND DIVISION**

20 EPIC GAMES, INC.,

21 Plaintiff, Counter-Defendant,

22 v.

23 APPLE INC.,

24 Defendant, Counterclaimant.

Case Nos. 4:20-CV-05640-YGR

**DECLARATION OF KARL
 QUACKENBUSH IN SUPPORT OF NON-
 PARTY VALVE CORPORATION'S
 ADMINISTRATIVE MOTION TO SEAL
 CERTAIN TRIAL EXHIBITS OF
 DEFENDANT APPLE, INC.**

25 I, Karl Quackenbush, declare and state as follows in support of Valve Corporation's
 26 ("Valve") Administrative Motion to Seal Certain Trial Exhibits of Defendant Apple, Inc.
 27 ("Motion"):

28 1. I am General Counsel for Valve. I am competent to testify, and have personal
 knowledge of the facts stated below.

2. Valve is a private company headquartered in Bellevue, Washington with
 approximately 350 employees that develops PC video games. Valve also operates Steam, an
 online platform that lets users purchase and play PC games on their laptops and desktops. Over
 30,000+ PC games are available on Steam, over 99% of which were made by third parties other

1 than Valve. Third party developers that offer their games on Steam set prices for their games.
 2 Valve collects the purchase price from Steam users and remits the proceeds to the third party
 3 developer net of taxes and a revenue share to Valve.

4 3. Valve is a privately held company with no outside shareholders or lenders. It
 5 is not subject to public regulatory reporting and auditing requirements. Valve does not publicly
 6 disclose its sales and revenue information and projections or its business strategies. Valve
 7 derives a significant value from the confidentiality of such information. In addition, because
 8 third party games are available on Steam, Valve has a large amount of confidential third-party
 9 sales and revenue information, which Valve does not publicly disclose in order to protect the
 10 third parties' confidentiality. Our agreements with these third parties require us to keep this
 11 information confidential.

12 4. In response to Defendant Apple, Inc.'s subpoena, Valve produced responsive
 13 documents (1,524 pages of business records), including documents containing confidential,
 14 highly sensitive, and competitively-valuable information. These documents include confidential
 15 business strategies, contractual terms, and other competitively sensitive information. Some of
 16 the information produced was not created or kept in the form requested in the ordinary course
 17 of business by Valve. Instead, Valve was required to specially query and combine information
 18 from various internal Valve sources to compile it. All such information is proprietary to Valve,
 19 with restricted and controlled access (including through password protection) within Valve to
 20 preserve the confidentiality of the information they contain.

21 5. Valve's Motion seeks to seal the following trial exhibits from Apple's exhibit
 22 list:

Ex. No.	Description
DX-3585	Agreement titled "Valve Corporation, Steam Distribution Agreement - Online Version" (VALVE 000028)
DX-5333	Valve – "Steam Distribution Agreement – Online Version" (VALVE 000050)
DX-3931	Agreement titled "Valve Corporation, Steam Distribution Agreement, Amendment No. 1" between Valve Corporation and Epic Games Inc., effective December 15, 2008 (VALVE 000085)
DX-4202	Distribution Agreement between Epic Games, Inc. and a Company (VALVE 000090)

1	DX-4388	“Steam Rev Share - Group Update” (VALVE 000617)
2	DX-3746	Slide deck titled “Steam Rev Share - Group Update” (VALVE 000628)
3	DX-3868*	Slide deck titled “Steam Rev Share - Group Update” (VALVE 000650)
4	DX-4514	Document titled “Steam Cross Play” (VALVE 000664)
5	DX-4200*	Email from DJ Powers to Steam SWAT Release re Epic Games Store, subject “Talking points from recent trip,” dated January 27, 2019 (VALVE 000669)
6	DX-5322*	Presentation re “Steam Rev Share- Group Update” (VALVE 000650)
7	DX-5321	Technical document titled “Steam Cross Play” (VALVE 000664)
8	DX-5320	Valve Corporation, “Net Steam Sales, Partner Revenue Share Payments and Net to Value” (VALVE 000677)
9	DX-5365*	Email from DJ Powers to Steam SWAT Release, “Epic Games Store – Talking points from recent trip” (VALVE 000669)

10 * Apple included duplicative exhibits: DX-3868 and DX-5322 are duplicates, as are DX-4200
11 and DX-5365.

12 6. Valve produced Exhibits DX-4388, DX-3746, DX-3868, DX-4514, DX-4200,
13 DX-5322, DX-5321, DX-5320, and DX-5365 with “Highly Confidential-Attorney’s Eyes Only”
14 designations under the protective order in this case. The remaining exhibits were produced with
15 “Confidential” designations.

16 7. Exhibits DX-4388, DX-3746, DX-3868, DX-4514, DX-4200, DX-5322, DX-
17 5321, DX-5320, and DX-5365 contain highly confidential information about sales and revenues
18 (both for Valve and third parties that sell their games on Steam), Valve’s revenue sharing
19 strategies and details, utilization of online platform features, business contacts, confidential
20 business strategies and contractual terms pertaining to specific partners. Valve does not distribute
21 or disclose any of these documents or the highly confidential information they contain outside the
22 company, particularly to any competitors.

23 8. In particular, Exhibit DX-5320 contains highly confidential internal financial
24 information—specifically, detailed sales and revenue figures for a six year period (2015-2020)
25 through Valve’s three main sales channels, with revenue share payments to third parties for all
26 three channels, along with the net to Valve from all such sales. Valve has never publicly disclosed
27 this information or publicly distributed it outside the company, despite numerous requests from
28 the media and others to do so. Valve has chosen to stay private in part to avoid the intrusiveness

1 and competitive harm that would come from publicly disclosing and reporting exactly this type
2 of information. Internally, the information on this document is stored on secure servers that are
3 password protected and accessible only to a limited group of Valve employees and officers that
4 have a specific need to access this information—Valve treats this information as a valuable trade
5 secret, because it is. Disclosure of the highly confidential financial information on this document
6 to the public would provide competitors a valuable snapshot into Valve’s internal operations and
7 finances. Valve derives a significant value from the confidentiality of this information and
8 zealously protects its confidentiality and the confidentiality of our partners’ information.

9 9. Exhibits DX-3585 and DX-5333 contain confidential information consisting of
10 Valve’s Steam Distribution Agreement governing its relationship with third parties who offer
11 their games on Steam, which includes among other things provisions regarding payment terms,
12 revenue share, licensing and IP rights, and a confidentiality agreement. Valve does not publicly
13 distribute or disclose these documents or the confidential information outside the company except
14 to developers who agree to the Steam Distribution Agreement, including its confidentiality
15 provision (Section 13.1 of the Steam Distribution Agreement expressly says the terms of the
16 Steam Distribution Agreement are confidential). While Valve treats the entire Steam Distribution
17 as confidential (and expects counterparties to do so as well), Sections 1-7 largely define the
18 business terms of the parties’ relationship. In particular, Section 6 regarding the agreed revenue
19 share arrangement between Valve and third parties is particularly confidential and sensitive, as it
20 specifies the financial terms of the relationship. Valve derives significant value from keeping
21 this information confidential.

22 10. Similarly, DX-3931, and DX-4202 contain confidential information consisting of
23 the specific contract terms between Valve and Plaintiff Epic Games, Inc. (“Epic”) and payment
24 terms, including but not limited to the type of contract terms in DX-3585 and DX-5333. Valve
25 does not publicly distribute or disclose these documents or the confidential information outside
26 the company, and Sections 1-6 of DX-4202 are particularly sensitive for the reasons discussed
27 above with respect to DX-3585 and DX-5333.

1 11. Exhibits DX-4388, DX-3746, DX-3868, and DX-5322 are internal Valve
2 documents created as part of internal strategy discussions among a limited group of Valve
3 employees regarding how Valve manages its business, potential changes to the Steam revenue
4 sharing program and contractual terms with third parties, and include analysis of potential effects
5 of changes on third-party sales and other revenues. Valve does not distribute or disclose these
6 documents or the confidential information they contain outside the company, and derives a
7 significant value from keeping this information and its internal strategy discussions
8 confidential.

9 12. Exhibits DX-4200 and DX-5365 (duplicate exhibits) are internal Valve emails
10 with highly confidential detailed discussion of Valve's strategy for competing with the Epic
11 Games Store. Among other things, these emails discuss changes in the market, various tactics and
12 steps taken by Epic to compete with Valve, the impact of such actions, and potential actions by
13 Valve in response. These emails were circulated to a limited group of people inside Valve with a
14 specific need to know such information and to participate in these strategy discussions. These
15 emails and the information they contain is kept confidential by Valve and not publicly disclosed
16 or disseminated. Valve derives economic and competitive value from the confidentiality of such
17 information.

18 13. Exhibits DX-4514 and DX-5321 (duplicate exhibits) is an internal Valve
19 document analyzing the potential use of Steam features on other platforms. In addition to detailed
20 information and analysis about numerous third party products, these exhibits include internal
21 status updates on discussions with third parties and information about the status and plans for
22 product development. This document and the information it contains is kept confidential by Valve
23 and not publicly disclosed or disseminated. Valve derives economic and competitive value from
24 the confidentiality of such information.

25 14. Disclosure of any of the above non-public financial and proprietary information
26 would harm Valve's competitive standing as it would give significant and unfair insight into
27 Valve's strategic decision-making, strategic plans, operations and financials. If disclosed, others
28 could gain unfair competitive advantage by using this information to develop competing products

1 and features, undercut pricing, or negotiate different contract terms. Valve would face substantial
2 harm to its competitive standing and to its business operations.

3 15. Valve has expended significant resources and implemented strict measures to
4 prevent disclosure of the confidential information contained in the subject trial exhibits, including
5 by storing such information under password protection on internal Valve servers, limiting access
6 to certain of the information as described above to certain Valve employees with a specific need
7 to know, and not making such information publicly available (including to any outside investors
8 or lenders, which Valve does not have). Moreover, even with respect to the information Valve
9 shares with third parties who sell their games on Steam (DX-3585, DX-5333, DX-3931, DX-
10 4202), Valve contractually requires its partners and developers to keep such information
11 confidential. The confidential information in the trial exhibits would not be available in the
12 ordinary course of business to Valve's competitors or the public.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct. Executed on April 29, 2021 at Bellevue, Washington.

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4 
Karl Quackenbush